

OFFICE OF THE ATTORNEY GENERAL



Industrial Relations
80-DD315

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Honorable William J. Davis
Director
Department of Industrial Relations
649 Monroe Street
Montgomery, Alabama 36130

Department of Industrial Relations -
Funds - Real Estate

Department may acquire real estate
and construct building only through
and with the approval of the State
Building Commission.

Dear Mr. Davis:

We are in receipt of your letter asking for an opinion on
the following two questions:

"1. Can the Department of Industrial
Relations purchase land and construct
a building using monies from the SESA
fund?

2. If the Department amortizes the
costs from other federal operating
funds, can the money so amortized be
deposited back into our SESA fund or
must it be deposited in the State
general fund?"

In regard to your question number one I note that the
special employment security administrative fund referred to in
this question was created by Section 25-4-142(b), Code of Alabama
1975. This section states that these moneys may be used by the

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director for the payment of costs of administration of the employment security laws of this state which are found not to be or not to have been properly and validly chargeable against funds obtained from federal sources. It states further that such moneys may not be expended or made available for expenditure in any manner which would permit the substitution for federal funds, which would, in the absence of said moneys, be available to finance expenditures for the administration of state unemployment and employment security laws. As a matter of fact, there are no federal funds available for acquiring and improving real estate so there is no prohibition in the law against using funds for these purposes.

However, I am unable to find any specific statutory authority granting to the Department of Industrial Relations the power and authority to acquire and improve real property. Those powers are however vested in the State Building Commission created by Section 41-9-140, Code of Alabama 1975. Section 41-9-141 vests in the Commission broad powers to acquire real property and to construct buildings on such property for and on behalf of the state and its agencies. It is therefore my opinion that the Department of Industrial Relations may with the approval of and through the State Building Commission acquire real property and construct buildings thereon to be used solely for the administration of the unemployment compensation and employment security laws. Furthermore, the acquisition and construction must comply with all applicable state competitive bid laws and public works laws including but not limited to Sections 41-16-20 through 41-16-32 and Sections 39-2-1 through 39-6-2, Code of Alabama 1975. Your first question with the qualifications set out hereinabove is answered in the affirmative.

The answer to your second question is found in Section 41-4-92, Code of Alabama 1975. That section states in pertinent part as follows:

"All fees, receipts and income collected or received by any department, board, bureau, agency or office or institution of the state shall be paid into the state treasury or deposited in an approved state depository to the credit of the general fund of the state of Alabama or to the credit of a special fund if the latter is required by law...."

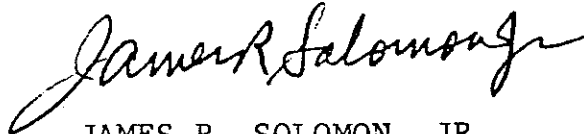
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Since there is no law requiring the deposit of such receipts into a special fund, they must be deposited into the state general fund.

I trust this satisfactorily answers your questions.

Sincerely yours,

CHARLES A. GRADDICK
Attorney General
By-

A handwritten signature in cursive script, reading "James R. Solomon, Jr.", written in dark ink.

JAMES R. SOLOMON, JR.
Assistant Attorney General
Chief, Agencies and Opinions
Division

JRSjr:dss